

Town of



AMHERST

Massachusetts

TOWN HALL
4 Boltwood Avenue
Amherst, MA 01002-2351

ZONING BOARD OF APPEALS
(413) 259-3040
(413) 259-2410 fax
Planning@amherstma.gov

June 10, 2014

Inge Ackerman
59 Sunset Avenue
Amherst, MA 01002

Dear Mr. Ackerman,

Enclosed please find the following documents in regard to Special Permit ZBA FY 2014-00034:

1. Zoning Permit with Conditions;
2. Copy of Decision & Approved Plans;
3. Copy of Notice of Special Permit;
4. Copy of Record of Appeal and Decision Rendered;
5. Copy of certified list of abutters;
6. Proof of Filing, for Hampshire County Registry of Deeds.

The above-listed documents were filed with the Amherst Town Clerk on June 5, 2014. Pursuant to Massachusetts General Laws, Chapter 40A, Section II, a 20-day appeal period begins the day after the Decision has been filed.

After this appeal period expires, you, the applicant or owner, must complete the application process before the Permit will take effect, as follows:

1. After the 20-day appeal period, which expires at the end of the day on June 25, 2014, you must acquire a "Certificate of No Appeal" from the Amherst Town Clerk certifying that no appeal of this Decision has been filed. A \$10.00 fee is charged for this service. If an appeal has been filed, you must wait until after it has been denied or dismissed before receiving appropriate certification.
2. After you obtain the "Certificate of No Appeal", you must record it and the enclosed documents at the Hampshire County Registry of Deeds in Northampton.

There will be a recording fee and you must return the Proof of Filing to the Planning Department.

If you have any questions, please do not hesitate to contact this office at 259-3040.

Sincerely,
Jeffrey R. Bagg
Senior Planner

Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2014-00034, to allow the pre-existing non-conforming single family dwelling to be structural altered and expanded into the required side yard setback, under Section 9.22 of the Zoning Bylaw, at 59 Sunset (Map 11C, Parcel 26, R-G Zoning District), with the following conditions:

1. The addition and site improvements shall be built substantially in accordance with the following plans:
 - a. Architectural Plans prepared by Teagno Construction, dated April 1, 2014:
 - i. Existing Plan and Elevation
 - ii. Existing Elevations
 - iii. Proposed Plan and Elevations
 - iv. Proposed Elevations
 - b. Survey site plan, prepared by Harold Eaton Associates, dated April 1, 2014
2. All exterior lighting shall be designed or arranged to be downcast to prevent light spillage onto adjacent properties.

Eric Beal
Eric Beal, Chair
Amherst Zoning Board of Appeals

6/5/14
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Inge Ackerman, 59 Sunset Avenue, Amherst, MA 01002

Date application filed with the Town Clerk: April 16, 2014

Nature of request: For a Special Permit to structurally alter and expand a pre-existing non-conforming single family dwelling, under Section 9.22 of the Zoning Bylaw

Address: 59 Sunset (Map 11C, Parcel 26, R-G Zoning District)

Legal notice: Published on April 23, 2014 and April 30, 2014 in the Daily Hampshire Gazette and sent to abutters on April 23, 2014

Board members: Eric Beal, Keith Langsdale, Carolyn Holstein

Staff members: Jeff Bagg, Senior Planner; Rob Morra, Building Commissioner

Submissions:

- Application form filed with the Town Clerk on April 16, 2014
- Applicant Narrative, dated March 31, 2014
- 1938 rendering
- Existing lighting photograph
- Architectural Plans prepared by Teagno Construction, dated April 1, 2014:
 - Existing Plan and Elevation
 - Existing Elevations
 - Proposed Plan and Elevations
 - Proposed Elevations
- Survey site plan, prepared by Harold Eaton Associates, dated April 1, 2014
- Letter from Kenneth Rosenthal, 53 Sunset Avenue, dated April 5, 2014
- Kopelman and Paige, P.C. memorandum regarding Gale, dated January 19, 2012
- Email from Joel Bard regarding Gale case, dated February 27, 2014
- Town GIS, Neighborhood Context map

Site Visit: May 6, 2014

Eric Beal, Keith Langsdale, and Carolyn Holstein met the applicant, Inge Ackerman, and her architect, Chris Tarr of Teagno Construction onsite. The following was observed:

- The location of the property on the east side of Sunset Avenue.
- The location of the existing single family dwelling and attached garage.
- The approximate location of south property line and proposed location of the addition.
- The proximity to the neighboring property, containing a similarly arranged single family dwelling and attached garage.

Public Hearing:

The applicant, Inge Ackerman was present and accompanied by her architect, Chris Tarr of Teagno Construction.

Ms. Holstein disclosed that she has known the applicant for 30 years, but that her relationship will not affect her ability to make an impartial decision.

Mr. Tarr described the application as follows:

- The existing single family dwelling at 59 Sunset Avenue is pre-existing non-conforming relative to the side yard setback. As shown on the submitted survey, the house is 9.7 feet from the property line where 10 is the minimum requirement.
- The intention of this project is to convert an existing den into a full bathroom and add a bedroom to the ground floor of the house for the purpose of extending the time that the current owner can occupy the house in comfort, and to do so in a way that is respectful to not only the neighborhood in general, but also to the unique style of this house in particular.
- The proposed addition will add approximately 237 square feet of living space to the house and is designed so as to minimize changing the look of the house as seen from the street.
- The proposed addition will infill the inside corner created by the existing garage as well as extend the garage further into the front yard in a manner highly reminiscent of the original 1938 award winning plans that this house's original construction was based on.
- Upon discovering that the existing garage is not only situated within the side setback by a few inches, but also that the house was built slightly askew to the lot line. The applicant's first thought was to modify the proposed addition to eliminate any encroachment. Because the architects are working with a very small single car garage as it is, simply shrinking the size of the form to make it conforming is not reasonably possible while maintaining vehicular access to the garage.
- The architects considered moving the entire garage and bedroom north, thus enveloping a portion of the main house. This led to a number of concerns including, relocation of the electric meter, and proximity of fuel oil fill pipes as well as the safety concerns of reducing the size of an already small garage bay. If needed the new wall could be built 1 inch further from the property line so that the overall non-conformity may be reduced. Moving it the entire distance required for full conformity would create a less safe condition and detract from the architectural intent of the original structure.

The Board discussed the creation of a new non-conformity. The Board reviewed the memorandum provided by Town Counsel, dated January 19, 2012, regarding the Gale case. The Board relied on the entire memorandum, including the following summary statement in considering this application:

"The Court held that a variance relief is not required when a project increases a nonconformity or creates a "new nonconformity" if the zoning board of appeals determines that the project would not be substantially more detrimental to the neighborhood".

Findings:

The Board finds under Section 9.22, the following:

9.22 - The Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of this bylaw may, under a Special Permit, allow a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the

neighborhood or on property in the vicinity. Said Authority may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that the Authority finds that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building. The Board finds that the proposal is not substantially more detrimental to the neighborhood for the following reasons:

- The additional encroachment into the setback is minor, and amounts to less than ½ inch.
- The Town GIS map shows footprints of other properties in the vicinity are small; the proposed addition and minor encroachment would not be out of character with the neighborhood.
- The adjacent property to the south contains what is essentially a mirror image of the configuration of this single family dwelling and attached garage.
- The addition will not result in any negative impact to the aesthetics of the house.

Specific Findings:

10.380 & 10.381 - *The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.* The proposal involves a minor encroachment into a side yard setback, 3/8 inch. The setback and configuration of the dwelling and garage mirror the configuration on the adjacent property to the south. Additionally, the property to the north contains a similar arrangement with the dwelling located close to a side yard setback. Thus the proposed addition is not out of character with the properties immediately adjacent to it. The letter written by the abutter to the south where the addition is proposed is also of note. In terms of use, the property will remain a single family dwelling with no change. The proposal allows for additional living space to be created while preserving the architectural integrity of the structure, while minimizing the impact of the change from the street.

10.382, 10.383 & 10.385 - *The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.* The Board found that the architecture is consistent with the existing dwelling and the encroachment into the side yard setback is minor. As found under Section 9.22, the neighborhood contains similar patterns and building footprints. Additionally, the abutting property contains what is essentially a mirror image of the configuration of this a single family dwelling and attached garage. The permit is conditioned so that all exterior lighting be designed or arranged to be downcast to prevent light spillage onto the adjacent properties.

10.391 - *The proposal protects, to the extent feasible, unique or important natural, historic or scenic features.* The purpose of the proposed addition is based on preserving the historic character and design of the building. While the design encroaches on the setback, it is the minimum necessary to protect the architectural integrity of the dwelling.

10.398- *The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan.* The proposal maintains and enhances an existing single family dwelling where the use is normal and expected. The nature of the encroachment is minor and is in keeping with similar configurations on the adjacent properties. The proposed design helps to promote the health, welfare, and safety of the inhabitant and the surrounding neighborhood.

Zoning Board Decision

Mr. Beal MOVED to approve the application with conditions. Ms. Holstein seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2014-00034, to allow the pre-existing non-conforming single family dwelling to be structural altered and expanded into the required side yard setback, under Section 9.22 of the Zoning Bylaw, at 59 Sunset (Map 11C, Parcel 26, R-G Zoning District), with the following conditions:

Eric Beal
ERIC BEAL

Keith Langsdale
KEITH LANGSDALE

Carolyn M. Holstein
CAROLYN HOLSTEIN

FILED THIS 5th day of June, 2014 at 2:43 p.m.
in the office of the Amherst Town Clerk Sandra J. Bunge
TWENTY-DAY APPEAL period expires, June 25th, 2014.
NOTICE OF DECISION mailed this 5th day of June, 2014
to the attached list of addresses by _____, for the Board.
COPY OF NO APPEAL issued this _____ day of _____, 2014.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2014,
in the Hampshire County Registry of Deeds

BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED

Petition of Inge Ackermann

For A Special Permit to structurally alter and expand a pre-existing non-conforming single family dwelling, under Section 9.22 of the Zoning Bylaw

On the premises of 59 Sunset Avenue
At or on Map 11C, Parcel 26, R-G Zoning District

NOTICE of hearing as follows mailed (date) April 23, 2014
to attached list of addresses and published in the Daily Hampshire Gazette
dated April 23, 2014 and April 30, 2014

Hearing date and place May 8, 2014 (Town Hall)

<p style="text-align:center">LEGAL NOTICE</p> <p>The Amherst Zoning Board of Appeals will meet on "Thursday, May 8, 2014", at 6:30 P.M. in the Town Room, Town Hall, to conduct the following business:</p> <p>PUBLIC HEARINGS:</p> <p>ZBA FY2014-00034 - Inge Ackermann - For a Special Permit to structurally alter and expand a pre-existing non-conforming single family dwelling, under Section 9.22 of the Zoning Bylaw, at 59 Sunset (Map 11C, Parcel 26, R-G Zoning District).</p> <p>ZBA FY2014-00035 - Bistro 63 Monkey Bar, LLC - For a Special Permit to operate a Class II Restaurant, with accessory live or pre-recorded music, under Section 3.352.1 and 5.042 of the Zoning Bylaw, at 63-67 North Pleasant Street (Map 14A, Parcel 322, B-G, DR, MPD Zoning Districts).</p> <p>Eric Beal, Chair Amherst Zoning Board Of Appeals</p> <p style="text-align:right">April 23,30</p> <p>3292187</p>

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2014-00034, to allow the pre-existing non-conforming single family dwelling to be structural altered and expanded into the required side yard setback, under Section 9.22 of the Zoning Bylaw, with conditions.

Eric Beal - Yes Keith Langsdale - Yes Carolyn Holstein - Yes

DECISION: APPROVED with conditions

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Inge Ackermann
Address 59 Sunset Avenue
City or Town Amherst, MA 01002

Identify Land Affected: 59 Sunset Avenue
(Map 1C, Parcel 26, R-G Zoning District)

By the Town of Amherst Zoning Board of Appeals affecting the rights of the owner
with respect to the use of the premises on

59 Sunset Avenue Amherst
Street City or Town

The record of title standing in the name of
Inge Ackermann Life Estate
Name of Owner

Whose address is 59 Sunset Avenue Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 11590 Page 87
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2014-00034
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

Eric Beal (Signature) Chairman
(Board of Appeals)
(Signature) Clerk
(Board of Appeals)

_____ at _____ o'clock and _____ minutes _____ m.

Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____

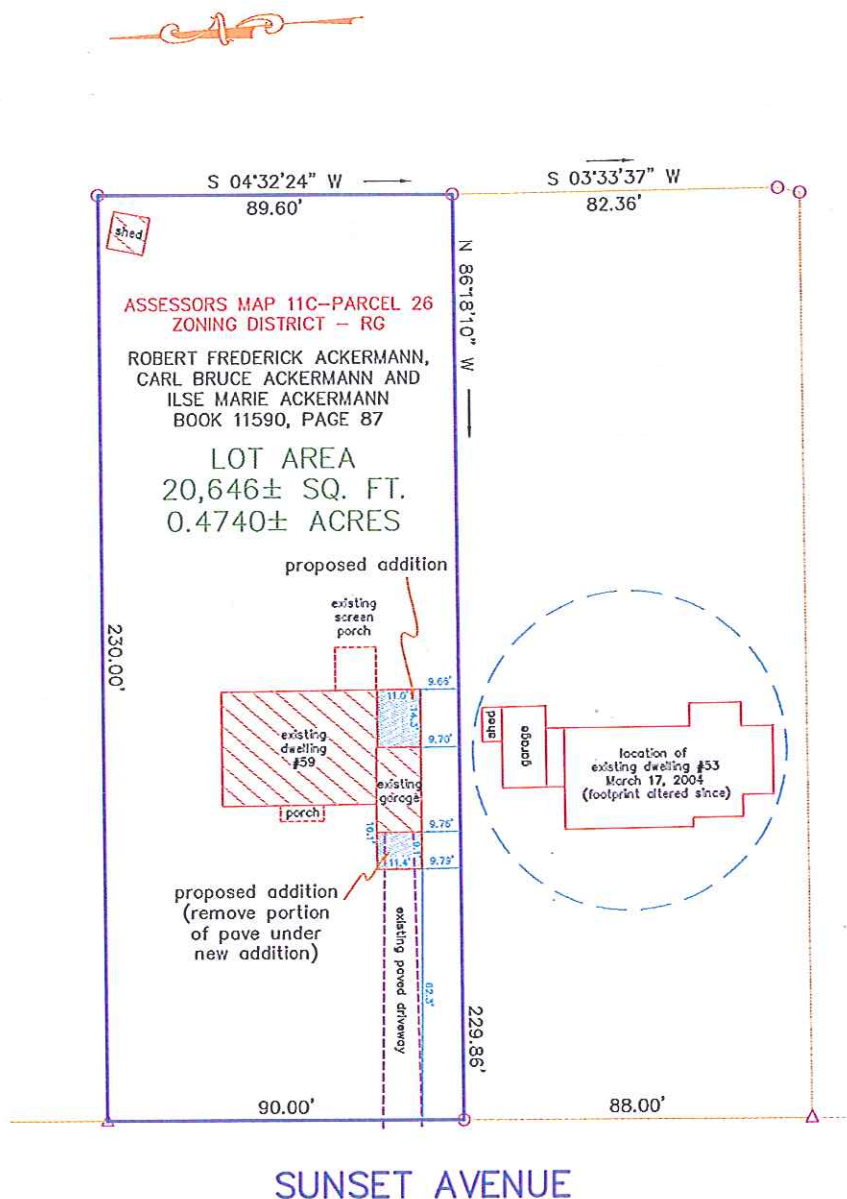
Register of Deeds
Notice to be recorded by Land Owner

Town of Amherst Abutter List

<i>Parcel_ID</i>	<i>Parcel_Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
11C-336	BRIGHAM LN	GILLEN, WILLIAM V		409 MAIN ST	AMHERST, MA 01002
11C-337	14 ELM ST	WINTER, KARIN	WINTER, KARIN REALTY TRUST	14 ELM ST	AMHERST, MA 01002
14A-17	148 LINCOLN AVE	CAMPBELL, MICHAEL L & NORWICK, COURTNEY		148 LINCOLN AVE	Amherst, MA 01002
14A-18	154 LINCOLN AVE	HOLCOMBE, JON W & KHAWA ENNIS		783 BAY RD	Amherst, MA 01002
11C-74	160 LINCOLN AVE	PELTIER JR, RICHARD E & GRETCHEN L		160 LINCOLN AVE	AMHERST, MA 01002
11C-76	163 LINCOLN AVE	KRAUSE, RHETT D & SUSAN A		163 LINCOLN AVE	AMHERST, MA 01002
11C-73	166 LINCOLN AVE	GILBERT, MARK D & NANCY J		166 LINCOLN AVE	AMHERST, MA 01002
11C-77	171 LINCOLN AVE	KU, HSU-TUNG & MEI CHIN		20 BRIDGE RD UNIT 12	FLORENCE, MA 01062
11C-71	174 LINCOLN AVE	DUMM, THOMAS L TRUSTEE		174 LINCOLN AVE	AMHERST, MA 01002
11C-78	179 LINCOLN AVE	SAGALYN, AVITAL R		179 LINCOLN AVE	AMHERST, MA 01002
11C-70	180 LINCOLN AVE	BRAUN, STEPHEN & REDDITT, SUSAN		180 LINCOLN AVE	AMHERST, MA 01002
11C-79	191 LINCOLN AVE	WILCOX, BRUCE G & GRETA GREEN TRUSTEES		191 LINCOLN AVE	AMHERST, MA 01002
11C-69	194 LINCOLN AVE	RESNICK, NORYN A		194 LINCOLN AVE	Amherst, MA 01002
14A-8	26 SUNSET AVE	COX, CHRISTOPH A & WHALEN, MOLLY K		26 SUNSET AVE	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
14A-11	33 SUNSET AVE	TOWSLEY, DONALD F. & KRISTAL JANE L		33 SUNSET AVE	AMHERST, MA 01002
11C-24	43 SUNSET AVE	BARKER, NATHANIEL A & RACHEL B		43 SUNSET AVE	Amherst, MA 01002
11C-23	46 SUNSET AVE	BENSON, BRUCE & BENSON, LUCY		46 SUNSET AVE	AMHERST, MA 01002
11C-25	53 SUNSET AVE	ROSENTHAL, KENNETH		53 SUNSET AVE	AMHERST, MA 01002
11C-22	58 SUNSET AVE	CARPENTER, CARLA & PRATHER, CHRISTOPHER		58 SUNSET AVE	AMHERST, MA 01002
11C-26	59 SUNSET AVE	ACKERMANN, INGE M & ROBERT J		59 SUNSET AVE	AMHERST, MA 01002
11C-1	65 SUNSET AVE	LAMOTTE, KATHERINE GLIME		65 SUNSET AVE	AMHERST, MA 01002
11C-21	70 SUNSET AVE	SANFORD III, CHARLES & SARAH LANG		70 SUNSET AVE	AMHERST, MA 01002
11C-2	75 SUNSET AVE	WOLF, JACQUELYN H TRUSTEE		75 SUNSET AVE	AMHERST, MA 01002
11C-297	76 SUNSET AVE	AUSTIN, JOYCE B & ALLAN D		76 SUNSET AVE	AMHERST, MA 01002
11C-20	84 SUNSET AVE	CADONATI, LAURA & DARNTON, NICHOLAS		84 SUNSET AVE	AMHERST, MA 01002

ZONING BOARD OF APPEALS APPROVED MAY 8, 2014



LEGEND

○ FOUND IRON PIN
△ UNMARKED POINT

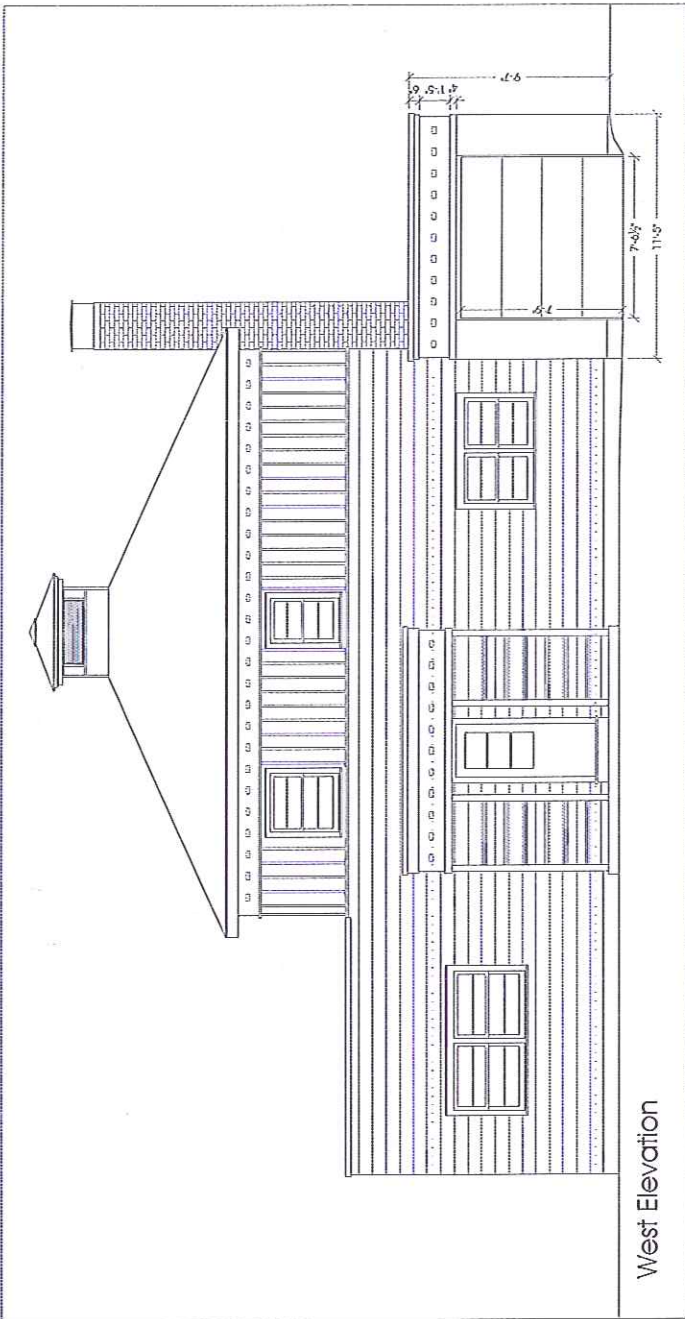
TOTAL LOT AREA - 20,646± Sq. Ft.
TOTAL EXISTING LOT COVERAGE - 2,113± Sq. Ft. - 10.2%
TOTAL PROPOSED LOT COVERAGE - 2,306± Sq. Ft. - 11.2%



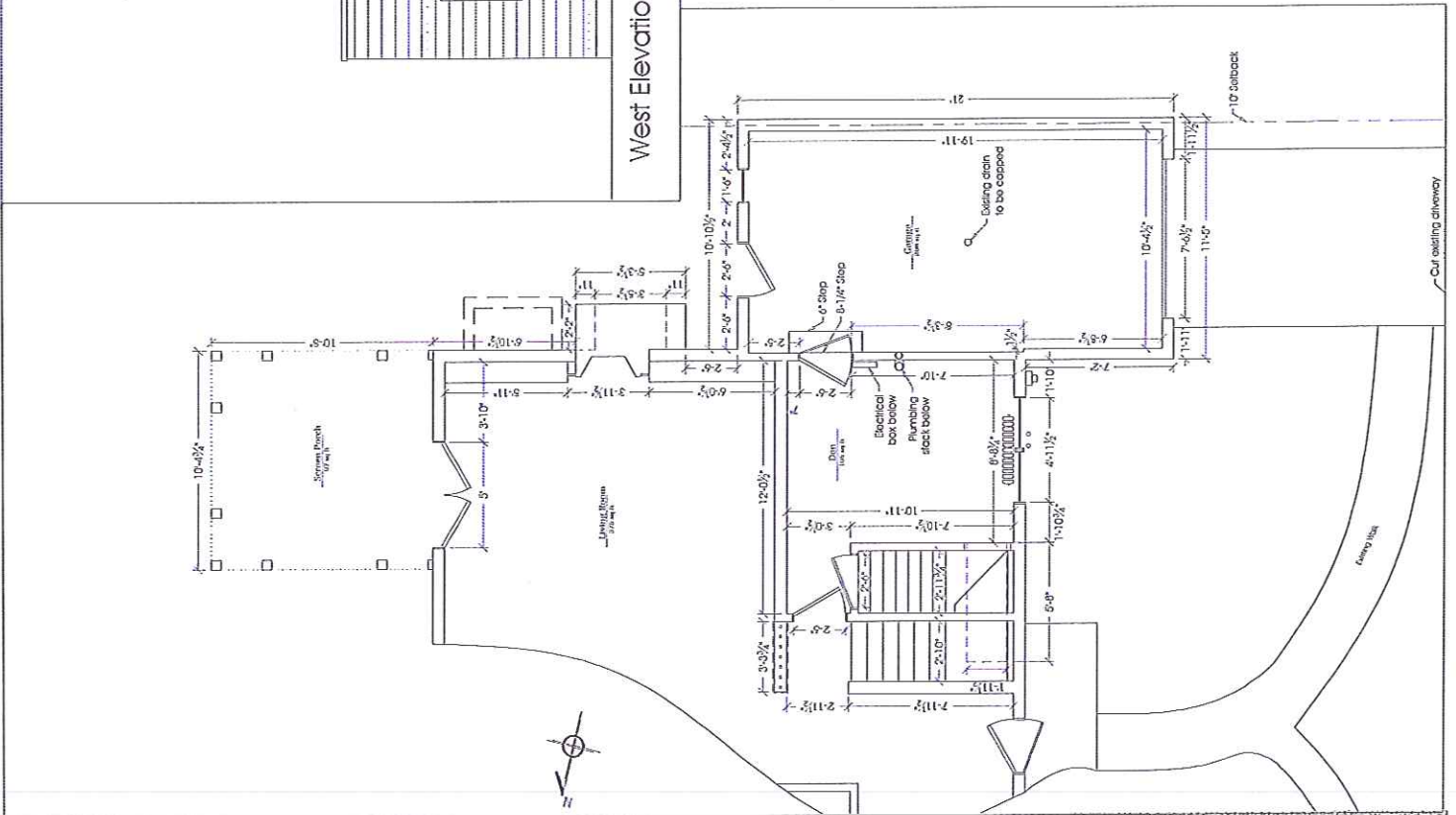
"SITE PLAN"
PLAN OF LAND IN
AMHERST, MASSACHUSETTS
PREPARED FOR
INGE M. ACKERMANN

SCALE: 1"=30' APRIL 1, 2014
HAROLD L. EATON AND ASSOCIATES, INC.
REGISTERED PROFESSIONAL LAND SURVEYORS
235 RUSSELL STREET - HADLEY - MASSACHUSETTS
413-584-7599 413-585-5976 (fax)
email - hleaton@aol.com

0' 30' 60' 90'



West Elevation



204 Special Permit Application
Ackerman
Residence

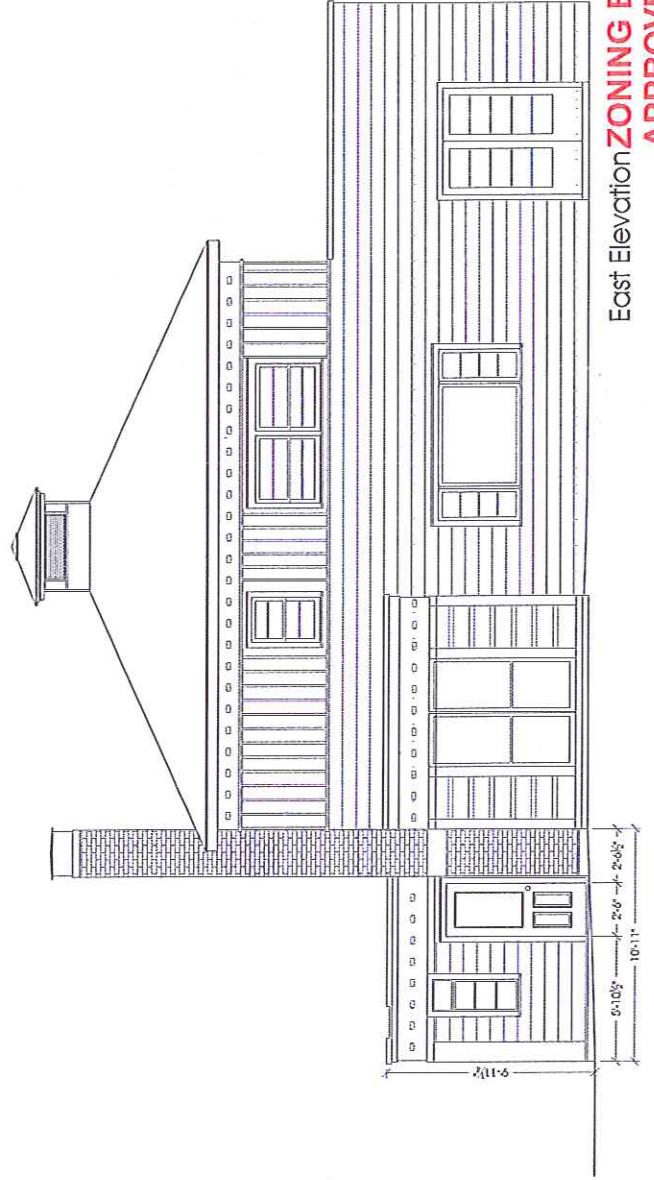
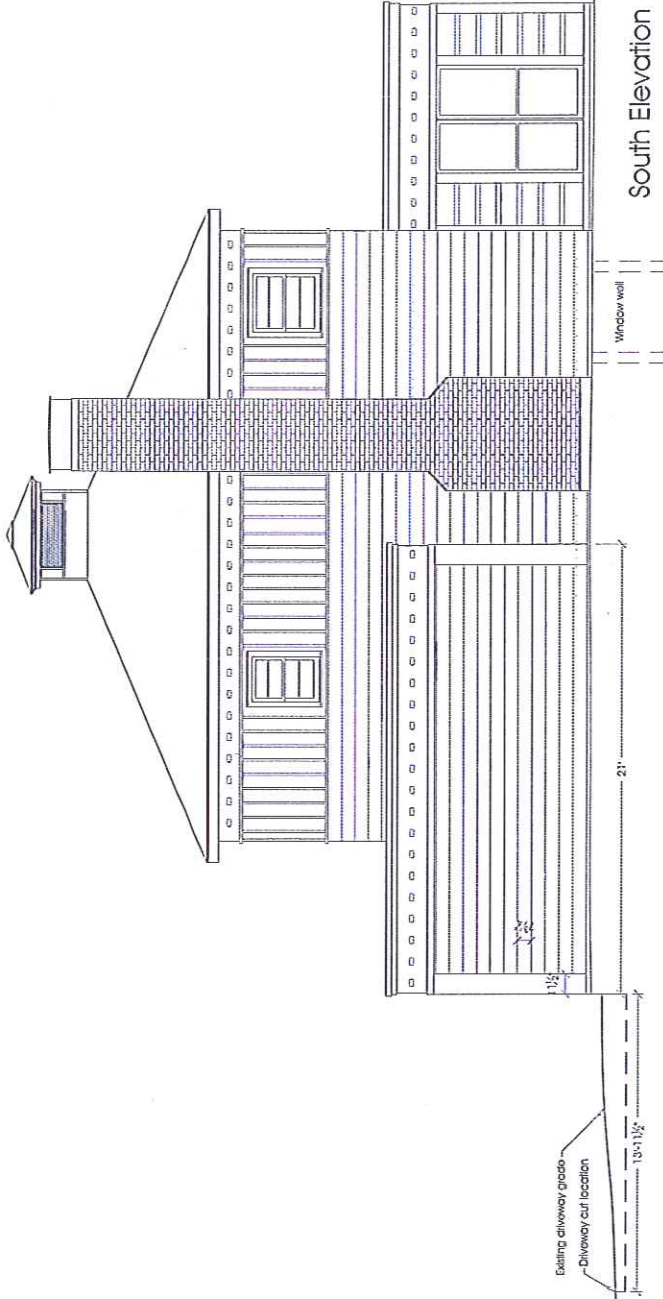
Project Name / Address
204 Special Permit
Date: 2012_04-01
Revision: 1
Prepared: [Signature]
Reviewed: [Signature]

Scale: 1/4" = 1'
Existing Plan and
Elevation

A.1 TCI
T. J. Ackerman
44103 540-0003
info@ackermanconstruction.com

DT LG MF GT CT
File 0

ZONING BOARD OF APPEALS
APPROVED MAY 8, 2014



East Elevation
 ZONING BOARD OF APPEALS
 APPROVED MAY 8, 2014

